IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.9.2007

CORAM

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE R.REGUPATHI

H.C.P.No.835 of 2007

Vasuki .. Petitioner

Vs.

1. The Commissioner of Police
   Greater Chennai, Egmore
   Chennai - 600 008.

2. The State of Tamil Nadu
   rep. by its Secretary to Government
   Prohibition and Excise Department
   Fort St.George, Chennai-9. .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue Habeas Corpus as stated therein.

For Petitioner : Mr.M.Sasikumar

For Respondents : Mr.P.Kumaresan
Addl. Public Prosecutor

O R D E R

(Order of the Court was made by P.D.DINAKARAN,J.)

The first respondent herein clamped an order of detention as against the detenu - Gandhi, son of the petitioner, as the said authority arrived at the subjective satisfaction that the said detenu is a Goonda and he has to be detained under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Officers, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

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2. Challenging the abovesaid detention, the mother of the detenu has come forward with the present Habeas Corpus Petition seeking a writ of habeas corpus to call for the records of the detention order No.154/2007, dated 10.4.2007 passed by the first respondent, to quash the same and to direct the respondents to produce the detenu, now confined in Central Prison, Puzhal before this Court and to set him at liberty.

3. The order of detention dated 10.4.2007 came to be passed based on the ground case said to have taken place on 2.4.2007 at about 10.00 a.m., when one Mohanan, who was running a petty shop at No.1, Chetpet, Chennai-31, was doing his business, the detenu demanded money by uttering filthy words. When Mohanan refused to give money, the detenu took a knife and threatened to kill him. The detenu also picked up soda bottles from his shop and hurled the same against them. The bottles fell on the road, broken into pieces and the broken pieces scattered all over the road. The public ran hither and thither for safer places out of fear of danger to their lives and properties. The traffic was disrupted. Due to fear, Mohanan had given Rs.150/- to the detenu. In the melee, the detenu escaped from the spot. Based on the complaint lodged by Mohanan, a case was registered in Crime No.182 of 2007 under Sections 386, 336, 427 and 506(ii) IPC on the file of G7, Chetpet Police Station.

4. The second respondent, taking note of the above case as a ground case and finding that there are two adverse cases pending against the detenu, having satisfied that there is a compelling necessity to detain him in order to prevent him from indulging in the activities which are prejudicial to the maintenance of public order, ordered his detention dubbing him as a Goonda.

5. The main contention of Mr.M.Sasikumar, learned counsel for the petitioner is that the detention of the detenu was not communicated to his family members.

6. The learned Additional Public Prosecutor invited our attention to the requisition for remand dated 2.4.2007 wherein it is stated that the family members of the detenu have been informed about the detention of the detenu.

7. We have perused the materials available on record and given careful consideration to the submissions of both sides.

8. In the requisition for remand dated 2.4.2007 with respect to both the second adverse case and ground case, it is stated that the family members of the detenu have been informed about the detention of the detenu. But, no supporting material is produced as an evidence to prove that the family members of the detenu were informed about the detention of the detenu and his place of detention.

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9. The object and purpose of informing the members of the detenu's household in writing of the passing of the order of detention and taking in custody of the detenu as also the place of detention immediately after the detenu is taken in custody pursuant to the order, is that the family members of the detenu should not be kept in darkness by withholding the information about the passing of the order of detention and the place of detention thereby preventing them from having any access and from rendering any help or assistance to the detenu and similarly the detenu should not be deprived of the privilege of meeting his relations and getting any help or assistance, vide Union of India v. Vasanbharathi, [1990] 2 SCC 275.

10. In the case on hand, no material was produced before us to justify that the family members of the detenu have been informed about the detention of the detenu and his place of detention. If that be so, the order of detention is vitiated. This petition must succeed and the same is ordered as prayed for. The detention order dated 10.4.2007 is set aside. The detenu is directed to be set at liberty forthwith unless his custody is required in connection with any other case.

ATR

Sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

To:

1. The Commissioner of Police
   Greater Chennai, Egmore,Chennai - 600 008.

2. The Secretary to Government
   Prohibition and Excise Department
   Fort St.George, Chennai - 9.

3. The Superintendent
   Central Prison, Puzhal, Chennai.

4. The Public Prosecutor
   High Court, Madras.

5. The Joint Secretary to Government
   Public (Law & Order)
   Fort Saint George, Chennai-9.

VRK(CO)
dcp/5.10

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